IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.180 OF 2006
WITH
CIVIL APPLICATION NO.244 OF 2006

Pune Mahila Mandal ... Appellants

Vs.

Mrs. Madhavi Madhukar Keskar & Ors. ... Respondents

Ms. Neeta Karnik for the appellants.

Mr. A.D. Patwardhan for the respondents.

CORAM : SMT. RANJANA DESAI &
SMT. V.K. TAHILRAMANI, JJ.

DATED : 25TH AUGUST, 2006.

P.C.:-

1. Heard the learned counsel for the parties.

2. Respondent 1, who was an employee of the appellants moved an application for payment of gratuity dues under the Payment of Gratuity Act, 1972. The appellants are impleaded in the said proceedings being the employers. However, the State of Maharashtra is not impleaded. The grievance of the appellants is that the liability to pay the gratuity is that of the State of Maharashtra and, therefore, the State of Maharashtra ought to have been made a party. The appellants had made an application before the

competent authority praying that the Additional Director, Public Health Department, Family Welfare, Pune, may be added as opponent 2 in the said application. The said application was rejected by the competent authority. The appeal filed therefrom was rejected by the appellate authority. The instant writ petition was filed challenging the said order. By the impugned order, the learned single judge has rejected the writ petition.

3. Ms. Karnik, the learned counsel for the appellants drew our attention to certain documents in support of her submission that the liability to pay the gratuity is that of the State of Maharashtra and, therefore, the State of Maharashtra ought to have been made a party. In our opinion, in the facts and circumstances of the case, no interference is necessary with the impugned order. The learned single judge, in our opinion, has rightly held that the employer cannot dictate that the State has to be impleaded as a party.

4. Needless to say that the respondents will suffer the consequences that may flow from the non-impleadment of the State of Maharashtra as a party and the non-impleadment is entirely at the risk of the respondents. In view of this, the letters patent appeal is dismissed. Needless to say that civil application also stands dismissed.

[SMT. RANJANA DESAI, J.]

[SMT. V.K. TAHILRAMANI, J.]